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ABSTRACT

A summary of 21 institutional self-studies concerning government and higher education considers the following areas: equal employment, affirmative action, and nondiscrimination; student affairs (student assistance and the Buckley Amendment); research; and safety and health. Brief excerpts from the institutional reports are presented on these issue areas. There seems to be almost universal agreement that federal laws and regulations dealing with nondiscrimination in terms of both sex and minorities, equal employment opportunity, and affirmative action have had more of an impact at the campus level than other types of regulations. The positive aspects of federal student assistance programs are readily acknowledged, but the procedures that direct these funds to the campus come under attack. The Buckley Amendment concerns protection of students against damaging misinformation being placed and retained in their files. While federal support of academic research is a major force in an institution's research capability, federal funding practices are said to discourage the establishment of long-range research plans. The Occupational Safety and Health Act of 1970, which attempts to standardize and enforce safety and health practices, applies to colleges and universities. (SW)

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Sloan Commission

on Government and Higher Education

GOVERNMENT & HIGHER EDUCATION

A SUMMARY

OF 21 INSTITUTIONAL SELF-STUDIES

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by

Irene K. Spero

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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INTRODUCTION

The summary of the twenty-one institutional self-studies (done earlier for the Sloan Foundation) which follows is both less compressed and differently organized than the earlier survey by J.A. Kershaw. Like Kershaw's summary, it treats, in order, the following things:

1. Equal Employment, Affirmative Action and Nondiscrimination
2. Student Affairs
   a. Student Assistance
   b. Buckley Amendment
3. Research
4. Safety and Health

Unlike Kershaw's, it seeks to present the range of experience of the institutions surveyed by brief excerpts from their individual reports. Thus the perspective and flavor of the several reporting institutions is preserved in a way that was not possible in the more synthetic style of the earlier survey.

The list of the twenty-one institutions with a brief characterization of each follows:

NAME OF INSTITUTION	TOTAL * ENROLLMENT (in 1,000's)	CONTROL	LOCATION	TYPE OF INSTITUTION	RELIGIOUS AFFILIATION
U. of Alabama University, Alabama	15	Public	Small City	University	
Bishop College Dallas, Texas	1.7	Private	Suburban	Predominantly black liberal arts college	National Baptist Churches
Brigham Young U. Provo, Utah	26	Private	Rural	University	Church of Jesus Christ of Latter-day Saints
U. of California Berkeley, California	30	Public	Suburban	Research University	
Drexel University Philadelphia, Pa.	9	Private	Urban	University	
Earlham College Richmond, Indiana	1.2	Private	Small City	Liberal Arts College	Society of Friends
Franklin and Marshall Lancaster, Pa.	2.1	Private	Small City	Liberal Arts College	
U. of Iowa Iowa City, Iowa	25	Public	Small City	University	
M.I.T. Cambridge, Mass.	9	Private	Urban	Research University	
Miami-Dade Com. College Miami, Florida	40	Public	Urban	Community College	
Ohio State U. Columbus, Ohio	55	Public	Urban	University	
Oregon State U. Corvallis, Oregon	16	Public	Small City	University	
Rice University Houston, Texas	3.7	Private	Urban	University	

Roosevelt University Chicago, Illinois	7	Private	Urban	University	
Southern U., A&M Baton Rouge, La.	9	Public	Urban	University	
Stanford U. Stanford, Calif.	12	Private	Suburban	Research University	
Sterling College Sterling, Kansas	0.5	Private	Rural	Liberal Arts College	United Presbyterian
Villanova U. Villanova, Pa.	9	Private	Suburban	University	Roman Catholic Church
Wellesley College Wellesley, Mass.	2	Private	Suburban	Women's Liberal Arts College	
Western Michigan U. Kalamazoo, Mich.	21	Public	Small City	University	
Williams College Williamstown, Mass.	2	Private	Rural	Liberal Arts College	

NO REPORT RECEIVED

Campbell College Buies Creek, N.C.	1.9	Private	Rural	Liberal Arts College	Southern Baptist Convention

*Including part-time, and rounded to nearest thousand for larger schools.

EQUAL EMPLOYMENT, AFFIRMATIVE ACTION AND NONDISCRIMINATION

There seems to be almost universal agreement that federal laws and regulations dealing with nondiscrimination in terms of both sex and minorities, equal employment opportunity and affirmative action have had more of an impact at the campus level than other types of regulations. At the outset it should be stated that the higher education institutions surveyed concur with the goals of this legislation; the often unwieldy and sometimes conflicting rules and regulations are at the heart of the debate. For our purposes, the most important pertinent laws and executive orders are Titles VI and VII of the Civil Rights Act of 1964, Executive Orders 11246 and 11375, as amended, Title IX of the Education Amendments of 1972, and the Rehabilitation Act of 1973; though the requirements and enforcement mechanisms of each differ, their effects at the campus level can be grouped together for discussion purposes.

At times, colleges and universities regard the procedures dictated by these laws as almost ends in themselves.

> It costs federal agencies very little to impose additional affirmative action requirements and reports. It is widely believed that many of the reports go unread, that they are simply a process of converting lots of trees from the nation's forests into a form suitable for storage in federal warehouses. The imposed requirements have a certain procrustean quality; the terribly impenetrable problem of discrimination is hacked and stretched to fit into these required solutions the government feels able to adopt. Correcting discrimination comes to be a matter of the proper forms and procedures. Results are assessed not in terms of equal opportunities made available, which is not readily measured, but in the number that end up on this or that output category, which allows for simple counting.
>
> - Berkeley, p. 92

And

> The government, thus, by being hard handed in its demands for equity, has created such a paper mill as to make higher education lose the sense behind equality in hiring.
>
> - Alabama, p. 9

There is some feeling that all this emphasis on procedure does not result in the intended goal.

> For all of these reasons, the relationship between the campus and the civil rights agencies is bound to be characterized by tension and antagonism. If the end product was mutually satisfactory, or if at least one party was pleased with the results, then it might be worth it. But civil rights groups and agencies are not, on the whole, convinced that minorities and women are making adequate progress. Berkeley is of the view that any progress that occurs is taking place almost in spite of the distracting, ultimately counterproductive forays of the agencies.
>
> - Berkeley, p. 74

The hiring and promotion process has become more cumbersome and lengthy as a result of affirmative action plans. Job descriptions and criteria for evaluating applicants must be formulated and search procedures initiated. This trend is apparent at both small colleges

> Affirmative action has made the College more attentive to the process by which it hires faculty. It has made hiring more complicated and more prolonged than it had been. All involved have been at pains to locate new sources of candidates and to "make a good showing" in case question is ever raised about the good faith of the institution in searching for women and minorities.
>
> - Williams, p. 7

and large universities.

> ...a steady stream of complaints about the paperwork and the delays. In 1976 one department reported that since 78 applicants applied for one faculty position

> and had to be included in the paperwork on the eventual selection sent to the Faculty Office of the Assistant on Academic Affirmative Action, it had taken one secretary roughly three days to complete the necessary forms - and the department was recruiting for two more positions!... The same investigator reports that his department recently lost an outstanding woman applicant for a faculty position; after her interview the department was ready to hire her on the spot, but formal compliance with affirmative action requirements meant a three month delay before the job could be offered and in the meantime she received, and accepted, an offer elsewhere.
>
> - Berkeley, p. 88

The new hiring procedures have weakened the earlier "old boy" network recruiting.

> Faculty are generally familiar with the old-school-tie tradition of hiring - a client/patron system which preserved the virtual monopoly of a few schools on the better jobs in higher education. Affirmative action has taken many of these jobs out of the closed circle which formerly existed. The advertising of job openings when they occur makes the position known to many who would not normally have known of it in the past. By focusing attention on the verifiable qualifications of candidates these new applicants are often given a real chance where before they had none. Certainly the old-school-tie (or grapevine recruiting) still goes on in many areas, but its hold is weakening, as several faculty at Villanova reported in this study.
>
> - Villanova, p. 63

But even with a wider search conducted many of the applicants recruited from these larger efforts are not considered suitable for employment.

> Most of the respondents felt that at Rice the recent compliance efforts have only led to an influx of applications from unqualified applicants resulting in excessive and time-consuming paperwork. Even so, they felt that these procedures should remain in effect.
>
> - Rice, p. 16

And

> Serious search requirements have not modified this process ["old boy" network] appreciably, other than to increase documentation and to insure that women and minority candidates are given more attention. While some of the departments we surveyed advertise available positions, others maintain that advertising does little more than generate increased paperwork. A large number of candidates respond to the advertisements; few, if any, are at all qualified, and yet all have to be answered personally. Even the departments that do advertise admit that few serious candidates have been produced as a result. However, departments in the humanities and the social sciences, which were not reviewed for this study, do appear to generate a large number of serious candidates through advertising campaigns.
>
> - M.I.T., p. 14

Though the administrative difficulties that result from these regulations are burdensome, the grievance procedure associated with affirmative action draws even more criticism.

> Perhaps the most offensive part of compliance investigations is that the usual presumption of innocence is not extended under those procedures and the University is obliged to defned itself under the presumption of guilt.
>
> - Roosevelt, p. 21

And

> ...while the law calls upon the campus to make a good faith effort to improve the position of women and minorities, the starting assumption must be that discrimination has occurred and is probably continuing. By focusing enforcement on complaints, within the general assumption of discrimination, the agency necessarily assumes an adversarial stance vis-à-vis the campus. Moreover, in a complaint the agency functions more or less as an advocate of the employee or student, not as a neutral arbitrator - the agency's responsibility under the law is to serve as an avenue for redress, not simply as a place where people may turn for an orderly analysis of the facts of the matter.

> This is the source of the frequent campus lament that in dealing with the Office for Civil Rights or EEOC, the campus is constantly being asked to prove its innocence.
>
> - Berkeley, p. 71

The situation is further complicated by the fact that it is relatively easy for an individual to charge discrimination (often at more than one agency) and there is no way to assess the validity of the claim short of a full-scale investigation.

> ...state and federal agencies have consistently resisted establishing a preliminary review mechanism that would weed out frivolous or spurious complaints from ones that merit serious investigation. Instead the agencies take up the complaints as they come in, and send out requests for masses of information deemed pertinent to the investigation. It is not uncommon for the agencies in the course of investigating, to discover that they need additional items of information which they insist the campus supply. When queried on this they cite those sections of the regulations which bind the campus to supply the information pertinent to enforcement actions and define failure to do so as non-compliance.
>
> Another prominent feature of the investigation process is that it has no terminal date assigned in advance. Numerous complaints are taken up, fall from view, then are suddenly reopened, sometimes after two to three years have elapsed. Thus in the past few months the campus has been hit with a flurry of investigations as two agencies moved to clean out a backlog of complaints that had accumulated. Typically, the reopening of a case leads to new requests for information from, and interviews with, campus personnel. Even when a complaint is handled by an agency with dispatch the entire process may be interminable for the campus, because it is not uncommon for the disgruntled to file simultaneously or serially with the several different agencies available, or to couple a complaint to an external agency with the filing of a grievance on the campus. It is seldom that action by one agency is held by another to preclude its getting involved.
>
> - Berkeley, p. 67

And

> Another impact that EA/EO has had on the college is the ease and capability an individual has of filing a complaint against the college with EEOC. Although the administration may feel that the complaint filed with EEOC is frivolous, nevertheless, EEOC usually will require extensive amounts of data, often about all employees, before they close the case, advise the complainant that they have no valid complaint, or advise the college that corrective action should be taken. The burden of proof is entirely on the college with nothing required of the complaining party but a statement of complaint. Defense against frivolous complaints can only be based on exhaustive records of personnel actions that are just now being developed at considerable cost.
>
> - Miami-Dade, p. 64

Another frequently expressed complaint is that the government requires colleges and universities to supply excessive and irrelevant data and then does not use this information.

> The office of personnel services reports to HEW biennially in line with the EEOC requirements. This report must include race, sex and other data on every person working at the University, a list some 5,000 strong. According to the Institutional Research director, there is, 'not a chance they can use all this information; they are four years behind in gathering and reviewing it.' She also pointed out that they often cause additional problems by changing the requirements.
>
> - Alabama, p. 7

And

> ...demands by a government agency for excessive, irrelevant, and duplicative data. The objection is not against proper investigation of a complaint. Our disquiet stems from investigative offices which make demands for mountains of data, without considering the burden which their gathering imposes on the institution. And sometimes those data are not even used by the investigators.
>
> The particular example above refers to a complaint against our Law School. The investigative offices initially wanted 'the records of all students who had

> attended the Law School during the previous three years' which would require going back about six years. After this initial demand, which amounted to over 3,000 records, the request after some discussion was modified to about 1,400 records. The Law School then had to go to great lengths to make individual records anonymous.
>
> One team of investigators did not even take this stack of records away with them after their visit. The District compliance agency asked for the same data at least four times, for four different investigators. Apparently these duplications were caused by investigators' resignations or reassignments, or by inadequate record-keeping.
>
> - George Washington pp. 80-81

Nor does it realize the difficulty that institutions may have in responding to these demands

> Of greater interest in this particular study however, again, is the fact that a federal requirement, be it altogether legitimate and pursuant to law, fans out into a much larger response activity than might be supposed, when it arrives at a large university containing a wide variety of schools, colleges, and administrative units. Response activity is multiplied many times over, in such cases, because central response offices must interface with so many internal units and filing systems in order to respond.
>
> - Ohio State, p. IV-10

Has all this effort changed employment patterns on the campus? From the data available it appears that the number of women, particularly at the lower levels, has increased somewhat; generally there has been less progress in hiring minority faculty. There seems to be some disagreement whether this increase is directly attributable to equal opportunity/affirmative action efforts.

> Despite these auxiliary benefits, the University can still state adamantly, as the executive vice-president does, that, 'The bureaucratic effort to

> monitor federal regulation is not contributing a nickel's worth to black and woman employment than would be accomplished anyway.' This conclusion is supported by figures; despite the University's comprehensive efforts at seeking out minority application, there has been no significant increase in their hiring here. 'The pool of black Ph.D.'s is not much bigger now than it has been,' said the vice-president, 'and competition is stiffer.'
>
> - Alabama, p. 8

And

> ...a recent informal survey found that all black faculty at M.I.T. had been recruited as a result of their contact with someone already here, often another black faculty member, and not through advertising or other public announcements. For example, the first black full professor was recruited by the administration as a result of personal contacts that several senior administrative officials had had with him in local public affairs.
>
> - M.I.T., p. 15

Any measures of improvement in the faculty status of women and minorities must be viewed in the larger context of the current economic condition of higher education: a decline in educational growth rates and the emergence of a "steady state" environment. Professors, once they attain tenure, stay put.

> ...large results cannot be expected overnight. They see the changes that have occurred as significant, and as symptomatic of even greater ones that will occur in the next few years. There has been a significant improvement in appointments of women and minorities to non-tenured positions as indicated in the figures. This must also be put in a larger context. Berkeley makes only 70 new appointments annually in a faculty of over 1,400. 82% of that faculty hold tenure. Unless many of its members suddenly find the grass is greener somewhere else, rapid change in the sexual and ethnic character of the faculty is impossible short of firing some of those who are tenured.
>
> - Berkeley, p. 83

Without any expansion in an institution's enrollment, few new jobs are available.

> The primary reason for the limited effects of attempts to open up the faculty to minority groups is the depressed job market for faculty outside of the professional schools. At Villanova many of these departments have not hired anyone for four or more years, while those that have, have hired only one person every several years, or in a really big year they might have hired two people. Given no, or very few, openings, all the good-faith special efforts in the world are going to produce negligible results, particularly when one bears in mind the peculiar nature of much university hiring. If, for example, one is seeking to hire a new professor for the English Department, one frequently will not be seeking the best qualified potential Professor of English. Frequently the Department will have a specific need to fulfill (e.g., Shakespeare, Modern Poetry, Black Literature, etc.). Even turning up a generally well-qualified minority applicant will be of little use if he or she is not qualified in the specific area to be filled. And the tight job market encourages, if not compells, such specialist thinking when recruiting - this is a good way to differentiate between the masses of otherwise generally well-qualified applicants to make the faculty recruitment process meaningful and manageable.
>
> -Villanova, pp. 60-61

And this affects personnel policies.

> Nearly all departments have had to tighten their budgets, with fewer academic positions offered, especially at the assistant professor level. As a result, departments have become increasingly conservative in their hiring practices, less willing to take risks than they might have been otherwise. Some professors have suggested that more women and minorities are likely to be hired in periods of rapid turnover, when money is not so tight and higher education is experiencing growth, not contraction.
>
> - M.I.T., p. 21

There are some that fear that affirmative action regulations may alter the basic characteristics of colleges and universities.

> More than any other set of rules, potential developments in affirmative action regulations threaten to divert the College from its central mission. To the degree that new rules (or interpretation of current rules) displace considerations of merit as controlling in faculty personnel decisions, the College as an institution for educating people will risk grave consequences. One administrative officer declared that 'My real concern about affirmative action is the lowest common denominator argument. I've heard it said by government officials that we don't need to hire Ph.D.'s, for we can use holder's of master's degrees to teach. All we need in this matter is one successful case against our position and everybody with minimal degrees will be pounding the door.' Franklin and Marshall students pay high financial costs for their education, and they legitimately deserve the very best instruction possible. Any rule which subverts the continuing search for high quality--in both new hires and tenure decisions--may be a fatal threat to the institution.
>
> - Franklin and Marshall, p. 76

> The evaluation of affirmative action rules can have at least one other effect which changes the decision-making style of Franklin and Marshall. Traditionally, the institution's operations have been structured by an array of individual and committee decisions on curriculum revision, faculty positions, general institutional policy, and other matters. Decentralized decision-making in some areas, however, is threatened by the emergence of external demands on the College. For example, while individual departments play the lead role in faculty hiring, the institution must bear the legal burden of any complaints charging discriminatory behavior. Consequently, a more centralized decision-making process within the College may develop in response to the new kinds of personnel pressures springing from public policy judgments on affirmative action. A greater central administrative concern for advertisement, recruitment, records, and documentation policies may limit decentralized decision-making.
>
> - Franklin and Marshall, p. 77

Again this trend towards centralization is viewed with alarm.

> Since equal opportunity legislation affects every aspect of the institution from hiring employees to counseling students, keeping people informed of their obligations is an almost impossible task. To the extent possible, the University has centralized procedures and policies to ensure compliance. The regulations are so sweeping, however, that centralizing to the extent necessary to ensure compliance would destroy the character of the institution. By necessity, the University must rely on communication for compliance, and communication is never certain.
>
> - George Washington, pp. 75-76

While the major impact of affirmative action plans is on the institution as an employer, Title IX of the Higher Education Amendments focuses on sex discrimination in policies regarding students. Correcting inequities in facilities appears to be underway in all cases, but the problem of athletics is a more difficult one.

> Because most universities have progressed relatively far in their efforts to eliminate sexual bias in areas of student housing and student conduct, the most active concern with respect to Title IX regulations is presently in the area of athletic opportunities. Oregon State University, in common with most other major universities, is still grappling awkwardly with these provisions of the bill in light of the complex and often intensely emotional issues underlying its athletic policies and practices. Preliminary steps have been taken to address inequities proscribed by this legislation: athletic scholarships have been instituted for women, efforts have been made to raise the quality of coaching in women's athletics, and more equitable physical facilities have been achieved in some sports. The cost to the university of many of these initial steps is difficult to estimate....
>
> - Oregon State, p. 9

In addition to affirmative action and equal employment opportunities for women and minorities, the handicapped are now becoming the subject of federal regulations.

> Many of the most severe problems with the 504 regulations will arise because they confuse equal access for handicapped persons, to jobs and academic programs, with equivalent treatment. In fact, handicapped persons often require special arrangements precisely to equalize access, but HEW makes such special arrangements more difficult to administer at the same time that it mandates them. For example, it will be difficult to properly prepare facilities and services for the handicapped when Berkeley is not allowed to find out that a prospective student or employee is handicapped, and the exact nature of the handicap, until relatively late in the admissions or hiring process. It will be hard to draw the line between 'providing the full benefits of the institution' and making adjustments to ensure that necessary medical care, i.e. physical therapy, is available.
>
> In general, the 504 regulations appear to be more flexible than those for 503, more appropriate to higher education institutions. 503 regulations, like many other Labor Department policies, fit industry, business, or civil service personnel models far better than academic ones. Still, the 504 regulations are, in many respects, among the most intrusive regulations ever written vis-à-vis higher education.
>
> - Berkeley, p. 55

A good deal of uncertainty surrounds the implementation of these regulations.

> Basically, the law says 'there must be access to physical facilities' for the handicapped. For new or remodeled facilities this means ramps, special toilet facilities, elevators and so on, which are incorporated in the construction, and which almost always add to cost. Thus a ramp in a new studio added $4,000, a ramp and toilets in a renovated music building added $2,500, elevator controls and toilets in a new library and renovated old library added $20,000.
>
> But the real question is whether older buildings need to be put into conformity. If all buildings had to be made 'accessible' to wheel chairs, probably 50 elevators would be required. At $100,000 each this would cost an enormous $5 million. The uncertainty of all this is the most worrisome aspect. New construction can be adapted, though at a cost as we have seen. On a campus whose oldest existing building was constructed in 1790, making the entire plant accessible

> would be an enormous and prohibitively costly task. The College is convinced that no rational benefit-cost notions would justify this; it is also convinced that wholesale changes of this sort might bankrupt the institution.
>
> - Williams, p. 23

The vagueness of the law sometimes translates itself into a minimum amount of activity.

> In the absence of clear direction from Washington, the Institute has opted for a 'wait and see' policy, moving ahead slowly with its program without committing funds to a massive construction effort.
>
> - M.I.T., p. 38

Some of the uncertainty extends beyond the elimination of physical barriers.

> Although University personnel generally understand how to cope with the problem of architectural barrier removal--it is primarily a matter of finding the time and the money--what are not as clearly understood at this moment are the ultimate ramifications of the Rehabilitation Act in the area of instructional procedures and practices. Removing barriers to learning for the blind and the deaf is a challenge that is now being confronted in only the most preliminary way. In the School of Engineering, for example, professors using visual aids in classes in which a visually impaired student is registered are being asked to provide an audio tape or to otherwise provide the handicapped student the same opportunities as others.
>
> - Oregon State, p. 73

An ominous word of caution was raised in one instance about the effect of all these regulations dealing with the handicapped on the larger area of affirmative action and merits attention.

> The new Federal emphasis on the handicapped highlights, in a profound way, the lack of any national priorities with respect to the imposition of burdens on higher education institutions to promote social objectives. The nation has moved through two waves of civil rights

concerns in recent years, on ethnic minorities and women. Berkeley, in particular, has been caught up in new administrative arrangements, additional expense, and institutional self evaluation with regard to these concerns. Leading officials on the campus believe there is an emotional limit on how many new rules, reports, and self-evaluations people can take seriously, and that the handicapped regulations may well push them over the limit.

- Berkeley, p. 62

Thus administrators here not only wish to avoid appearing silly or ridiculous by having to attend to all the details in these regulations, and are hesitant to impose still more burdens on their employees, they also worry about the possible psychological effects of the regulations. Once the point of tolerance is passed and exasperation sets in, the regulations will not be taken seriously, compliance will be perfunctory, and the self-evaluations will rigidify such feelings rather than provoking a thoughtful analysis of them. Even more serious, such a reaction would dilute or erode the tenuous legitimacy of affirmative action generally, thereby damaging ongoing efforts to meet the needs of women and minorities. It is difficult enough to convince everyone that discrimination exists and something must be done about it. Piling one set of intrusive regulations, evaluations, and reporting requirements on top of another, each one more concerned with details than the last, can make the entire affirmative action effort seem petty, bureaucratic, insensitive, and vindictive.

- Berkeley, p. 63

STUDENT ASSISTANCE

The positive aspects of federal student assistance programs are readily acknowledged. However, the procedures which direct these funds to the campus come under attack. Apart from criticisms of varied forms, differing needs formula, multiple applications, etc., one of the most basic criticisms of the federal student aid programs is the problem of timing.

> ...the problem of untimely Federal allocations consistently impedes the attempt to provide effective financial aid services to the University's students. It would seem to be in the government's best interest to appropriate student aid funds at least one year in advance, thereby assuring the U.S. Office of Education sufficient time to process institutional applications and to determine institutional allocations no later than February 1 of each year. Instead, institutions are usually notified in late May making it extremely difficult to develop student aid packages and to notify students--especially so in the case of summer term programs, for which students now receive their aid notice only a week or two before the term commences. Untimely governmental allocations have also encouraged institutions to 'gamble' on expected allocations in order to provide earlier notification for their students. It is a poor reflection on the Federal government, as well as a costly reality for universities, that the time tables set by the U.S. Office of Education have very seldom been met.
>
> - Oregon State University, p. 32

Furthermore,

> ...the government does not permit any remaining funds at the end of the fiscal year to be carried forward. The result is a bit of a scramble toward the end of the school year to get as much of the remaining money paid out as quickly as possible - hardly consonant with Federal pressures for prudent fund management.
>
> - Berkeley, p. 102

The other side of the timing problem is that available funds vary from year to year.

> ...instability characterizes the allocation of federal financial aid. Year-to-year variations in awards are quite common. For example,the Tri-part application (for the NDSL, SEOG, and CWSP) changes almost annually, (in review guidelines, if not in fact) as Washington reacts to political changes in party, personnel, and public opinion. Planning has become more difficult because the level of

> federal support is never certain. Last year, for example, M.I.T., appealed the initial decision on its allocation twice, with only limited success.
>
> - M.I.T., p. 48

Beyond specific complaints about rules and regulations is the frequently expressed concern that

> ...there is increasing bureaucratization in an area [financial aid] where personal contact and sensitivity in dealing with students is vital. The [Financial Aid] Office fears that it will soon be serving the regulations more than the students.
>
> - Berkeley, p. 120

There are some who regard this trend towards increasing bureaucratization as a fundamental shift in institutional roles and responsibilities.

> If there is a single change in the function of chief student affairs officers or educators with leadership responsibilities in the area of student personnel services, it has been the shift away from developing, implementing and evaluating programs which are created at the institution. The emphasis now is by necessity one of <u>reaction</u>; that is, trying to respond to various federal and state legislation in the area of students' affairs to make certain that the institution is in compliance. It is a dramatic shift in roles and responsibilities! No longer is it an <u>inward-looking</u> College and community oriented responsibility, but now it is more of an <u>outward-looking</u> State/Federal directed compliance responsibility that simply tries to keep the house in order in regard to the great myriad of laws, regulations, procedures, and guidelines that have come forth from the federal and state governments.
>
> - Miami-Dade, p. 7

Nor is this a problem only encountered at large universities.

> Beyond heightened administrative complexity, perhaps the most important consequence of such rules is reduced autonomy for financial aid officers, a result which can be detrimental to some students applying for aid. An administrative official put it this way: 'We want to preserve and professionalize the judgment of financial aid officers as the single and most important element in financial aid

> decisions, Federal regulations are taking away from us the opportunity for such judgment.'
>
> - Franklin and Marshall, p. 57

> A financial aid officer with good judgment and discretion can construct optimal aid packages for students. However, the reduction of this discretion is a classic illustration of the collision between public purposes and institutional processes. From the perspective of regulators, institutional 'flexibility' risks abuse of financial aid funds. Financial aid officers, however, view 'abuse abatement' rules as limits on the discretion needed to serve the best interests of individual students. The quagmire of financial aid rules has, to a large degree, resulted from this collision of perspectives. Ironically, the demand for increasingly sophisticated rules which acknowledge the diversity among institutions and allow 'legitimate' discretion will probably deepen the quagmire.
>
> - Franklin and Marshall, p. 58

Perhaps there would be greater tolerance of these regulations if the colleges and universities thought that the Office of Education was consistent and responsive.

> The director [of Financial Aid] also complained of the regulations as regards need as being too malleable, and that because of this he had several requests from Washington to act counter to stated regulations. 'They need to get their act together and define these regulations and then stick to them,' the director said.
>
> - Alabama, p. 21

And,

> Federal programs not only have no comparable system for expediting responses to inquiries, but the agencies responsible for administering the programs at times seem almost deliberately unresponsive to both the school and its students. In one case, e.g., the Office of Education ignored repeated letter inquiries from both Villanova's Office of Financial Aid and the student's mother about errors in a B.E.O.G. application. When the prescribed toll-free telephone number in Maryland was called, the only help given was another toll-free number, this time in Iowa. When this number was called - repeatedly - it would ring, connect, and then disconnect. When eventually

an operator was asked to help, she received the same response. Upon investigation she determined that someone was picking up the telephone, apparently to stop it from ringing, and then hanging it up.

At times the attitude of the Office of Education has verged on open hostility towards college financial aid officers.

- Villanova, pp. 42-43

BUCKLEY AMENDMENT

The Family Education Rights and Privacy Act -- and its Buckley Amendment -- was passed in 1974. Basically, the aim of the legislation is to protect students against damaging misinformation being placed and retained in their files; it also protects the students against use of information in their files by unauthorized persons and without their knowledge.

Guidelines to implement the law were not issued by the federal government until June 1976. Much uncertainty has surrounded this legislation for two reasons -- first, there were no public hearings on the topic and, second, the long period of time between enactment and the issuance of regulations.

There is a dramatic difference between the impact of the Buckley Amendment on small institutions and large universities. The smaller colleges, despite some initial concerns, have adapted to the Amendment with little difficulty.

> No one has reported a rush of students to see their records, although a few students have asked to do so. Most faculty and administrators have felt little or no effect on what they do from this Act.
>
> - Villanova, p. 81

> Indeed, the number of students asking to see their records has been very small. The students appear to be quite indifferent about the whole matter, as we would judge many, perhaps even most, of the faculty to be.
>
> - Williams, p. 19

> Granting student access to educational records has not posed administrative difficulties for the College. One administrative official termed the Buckley Amendment a 'flash in the pan'. The amendment required

> some adjustments in regulations that at the time were thought of as a monstrous burden. However, those adjustments were handled, and the amendment did not really intrude on College procedures.
>
> -Franklin and Marshall, p. 55

Contrast these statements to those of the larger institutions.

> What is required now at the College to comply with these revised state and federal laws is a great deal of additional study and analysis including consultation with a number of professional staff at Miami-Dade and the College attorney....
>
> * * *
>
> The implementation process to comply with the complexities of the Buckley Amendment is staggering. There was a report in The Chronicle of Higher Education that Harvard spent some sixty-thousand hours trying to determine how to implement the Buckley Amendment. It was also reported that Ohio State spent in the neighborhood of $250,000...
>
> - Miami-Dade, p. 9

> The whole process of keeping track of which students want information released and which students do not will be very cumbersome and costly for Miami-Dade. It will take resources desperately needed for educational programs.
>
> - Miami-Dade, p. 17

And

> ...the impact of this Act on the student advising activities at a school and departmental level has been substantial.
>
> - Oregon State, p. 14

Since a student has the right to see what is in his file (unless he waives this right) written recommendations are regarded as largely valueless.

> ...are pushing this campus toward simply declaring all recommendations to be non-confidential documents, which is the way many various lawsuits have been instituted around the country by disgruntled students who feel an unfair recommendation denied them admission or employment.

> This will destroy any shred of utility and credibility in recommendations. For a long time they have not been terribly useful because students get to pick who writes them, and because they have grown increasingly inflated in their praise. However, until recently they still were somewhat valuable when one read between the lines, and where negative comments appeared. The Graduate Division is particularly unhappy because this development has paralleled the erosion of grading standards and attacks on standardized tests, taking away the value of the traditional admissions criteria. Down this road lies admission by lottery.
>
> - Berkeley, p. 289

There are some who note that the Buckley Amendment has weakened the relationship between faculty and student.

> But some faculty members feel that the federal government is encouraging student distrust of faculty integrity.
>
> - Williams, p. 19

And

> ...the difficulties of sorting out the effects of the Buckley Act from a generally heightened awareness of, and demand for recognition of, student rights. Some on this campus have even argued that the new student militancy was caused by the increasing governmental recognition of student rights, but in fact student militancy had appeared even at Villanova well before any apparently relevant governmental regulations were enacted. There was even a student strike at Villanova in the late 1960's. On the other hand, formal recognition of student power over data supplied by faculty might well feed a deepening sense of mistrust between students and faculty that several faculty members noted. This distrust manifests itself as well in the growing number of law suits challenging the fairness of proceedings even at private schools.
>
> - Villanova, p. 83

RESEARCH

Federal support of academic research is a major force in an institution's research capability. At the same time, federal funding practices are said to discourage the establishment of long range research plans.

> ...government has managed to ensure that its funding simultaneously lacks both long and short term continuity. In long range terms a boom and bust cycle prevails in many fields - space sciences and oceanography are "in" for a while, then slump while funds pour into cancer and energy. This stems from a mistaken notion that there is a relatively close correlation between the solution of specific scientific problems and the money thrown at them. It disrupts the orderly progress of research in many fields, and should be replaced by a system with a certain level of relatively consistent funding over many years to sustain the research base in numerous fields, coupled with additional funds shifted from one area to another to reflect national needs and interests at the moment.
>
> Such a cycle is also hard on universities, which are long term in their basic nature. Berkeley has been fortunate in generally not having to attempt to swiftly adjust to changing fashions in research, for it takes a good deal of time to put together a research team, build up students, reorder space, and concentrate equipment to sustain a research effort. However, even here there have been investigators forced to let available funding dictate their research interests, lest their painstaking efforts to build and sustain a research unit be undone by the drying up of interest in the original field.
>
> - Berkeley, p. 144

And

> Whether universities select faculty with fundable research interests or successful faculty choose fundable research projects, the results are the same. Successful research universities have large funded programs. The concern in having the funding come in such large measure through the federal government is that research programs and, therefore, faculty and, therefore, academic programs will be responding to government interpretation of national priorities instead of responding directly to societal needs.
>
> - Drexel, p. 17

This issue is further exaggerated by shifting trends in research funding.

> Shifting federal priorities have had a major impact on the type of research now being funded, with much more attention now devoted to applied research, often related to pressing social problems. As a result, several professors admitted to shifts in the nature of their own research, reflecting in part the availability of funds in these areas. While none felt that his interests had altered solely because money was now available in a different field, most acknowledged its impact on their perceptions of what research topics were interesting, important, and worth pursuing. The availability of funding appears to play a particularly important role in the decisions of young faculty, many of whom choose their areas of research with an eye toward the future, hoping to begin work in a field which will continue to attract funds in later years. In addition, young professors have the flexibility to direct their research into any of a number of possible channels, and so can more smoothly shift direction in anticipation of new sources of funds.
>
> - M.I.T., p. 71

And

> Perhaps the most disturbing trend in research funding philosophy -- a trend that appears to be the logical culmination of the new emphasis on application and the disinclination to award institutional block grants -- is the increasing tendency of Federal agencies to earmark research funds for specific short-term projects promising almost immediate and visible 'benefits'. To the extent that all governmental agencies are, in a sense, competing in an increasingly competitive environment to justify their existence, it is only natural that they favor research projects focused on the exciting issues of the day and promising quick payoffs. This tendency is clearly manifested by the increased earmarking of educational and research funds, all in the name of assuring institutional responsiveness to societal needs. By nature, such earmarking of funding is highly oriented to the short term, overlooking the reality that changes in research emphasis are costly and that too many changes in direction are, in fact, self-defeating. These funding practices certainly do not encourage the kind of stability over a long period of time that is required to carry out solid research programs and to achieve significant research findings.
>
> - Oregon State University, p. 39

What happens when federal research funds are terminated? In some cases there is internal pressure for additional federal funds, particularly in the case of a large research oriented university.

> A number of professors commented on the pressures imposed by the administration to maintain research volume. Rather than treating large federal awards as windfalls, the administration regards them as unexceptional and part of normal operations. When their funding ceases and the department requests a corresponding increase in its academic budget, it often meets considerable resistance, with the administration encouraging the department to secure additional awards to compensate for those that have been lost. As a result, departments often feel under pressure to maintain or increase the volume of sponsored research, especially when faced with rising enrollments.
>
> - M.I.T., pp. 69-70

In other instances, where the institution's own resources are limited and there are no additional federal funds forthcoming, the implications are more serious.

> The high level of implementation of federal programs is difficult to maintain when federal funds are terminated....
>
> Courses and new degree programs which emerge as the result of academic revitalization tend to revert to traditional courses or 'watered down' versions of the implemented objectives.
>
> - Bishop, p. 32

And

> ...the capitalization of assisted enterprises on a basis of rising expectation, followed by disarray in planning, budgeting, and operations when times are not so good and sudden dislocations or retrenchments have to occur. When students (and commensurate faculty) are admitted to an academic program, they are admitted on assumptions of continuation through several years; but federal funding does not work that way; it tends to work on a year-to-year basis and the assisted institution, not the government, takes the risks.
>
> - Ohio State, p. III-16

Pressures to obtain federal sources of funding are translated into a new campus phenomenon -- the grantsman.

> Sponsored research has become the lifeblood of M.I.T., and accounts for a large proportion of the operating budget. As a result, professors are compelled to spend much of their time as 'research entrepreneurs,' drumming up outside funds in order to keep themselves, their students, and their departments financially secure.
>
> - M.I.T., p. 108

But playing the role of the grantsman is difficult.

> Given the number of government agencies sponsoring research, one is not surprised at the confusion confronting a novice seeking a first grant. Indeed, training by the University of junior faculty in grant application processes would probably help somewhat. Nonetheless, even experienced faculty with a number of successful grant applications behind them still face confusion and disorder when they seek the next grant. All too often one learns nothing from a failed application for funding - or even a successful one - except that the present system is chaotic and uninformative. Some faculty even have stated that they no longer bother applying for government grants because of the massive and confusing paperwork requirements. The source of this confusion is basicly [sic] the independence of each government agency in administering its research grant program - in preparing forms, setting deadlines, in supervising and regulating projects, and even in ignoring its own regulations. While each agency does legitimately have certain unique features which require different information from applicants and different regulations for the agency as compared to other agencies, most of the information sought and regulations imposed are sought or imposed for the same basic purposes. Standardization in these respects, with the burden on the agency to justify any departure from standard procedures would certainly rationalize a somewhat chaotic existing process, but this proposal probably ignores too many bureaucratic realities to be realized. At the very least, however, there should be a uniform requirement of a detailed explanation of why a grant application failed.
>
> - Villanova, pp. 92-93

Grant and contract applications, financial record keeping, fiscal administration, reporting requirements and the problems of

accountability draw major complaints on campus. One set of problems centers on the differing requirements at the federal and state level.

> In the areas of compliance and reporting, an oft-repeated grievance is the conflicting requirements between various levels of government (federal, state and municipal) and the diversity of reporting systems. A trivial example of the first instance that caused some consternation was the construction of a chamber in a research laboratory in which up to one pound of dynamite could be exploded. The chamber, actually a twelve by twelve room, had to be constructed in accordance with federal, state, and city requirements which conflicted with each other on certain particulars. The chamber was eventually constructed and is in use today. An example of the second type concerns financial reporting and auditing in research. The requirements and formats are different for different agencies and not the same as our own system for records keeping.
>
> - Drexel, p. 19

> ...a number of University programs must go through a local and state planning clearinghouse for review prior to being submitted to the federal government. In addition, the HEW Public Health Service has also required that Special Projects applications go to local Health Planning A and B agencies for review. Similarly the Fund for the Improvement of Postsecondary Education, as well as certain OE based programs, require review by the 1202 commission in the state. What is emerging is not a simple case of federal impact or state impact but a confusing array of various kinds of governmental involvements, beginning on the national level and descending to the regional level, the state level, and even the local planning agency level. In all of this, there is the danger that proprietary material will fall into the hands of competitors, that governmental and semi-governmental groups will have greater influence over the internal affairs of the University, and, last but not least, that the complexity of the review process will deter potential project directors from pursuing external support.
>
> - Iowa, p. 17

Another series of problems arise because the government cannot accept work formats that differ from its set pattern.

> They prefer neat work schedules as part of program proposals; the government really prefers to buy hours and weeks, not research, because hours and weeks can be measured. But students don't work this way. They have shifting priorities, drop in and out of projects, work erratically

> within the intermittent press of coursework and exams. Research itself is this way, and faculty are too. This can make hash out of efforts to fulfill the record keeping requirements, particularly since everyone involved is task oriented and not at all sympathetic to the time orientation of federal officials. Even a business office that keeps the accounts rigorously up to date on a monthly basis still gets caught periodically when an investigator shifts the level of effort of his employees temporarily (such as putting them on full time for a week or two rather than half time) to meet a deadline, or take advantage of a lull in his schedule or theirs, or follow up on an engrossing development in the research.
>
> - Berkeley, p. 209

> Auditing practices seem to assume that research and other academic pursuits are conducted on an eight-hour day, five days a week. In fact, however, most research activities are more accurately characterized by intermittent periods of activity, varying both in length and intensity. Many research procedures have built-in 'delays'; animals must grow on experimental diets, generations of plants or animals must be observed, preparation of tissue sections, cultures, crystals, etc., is quite often a meticulous and time-consuming process. Unplanned delays are also commonplace; computer programming errors must be found and rectified, air leaks in vacuum systems must be detected and repaired, impurities in reagents may negate previous experiments, and so on. During such delays, the researcher intensifies work on other projects simply to make the most efficient use of time (and Federal money). Auditing practices, however, seemingly cannot accommodate such irregular work procedures.
>
> - Oregon State University, p. 42

Universities cite the fact that many accounting practices insisted upon by the federal agencies are not truly cost effective.

> It must be noted, a bit ironically, that many of the administrative costs described above are to a greater or lesser extent ultimately paid for by the Federal government through direct or indirect charges to Federal research grants and contracts. The true costs of such Federal rules and regulations, therefore, is perhaps reflected less in the expenditure of University funds than in the frustrations of mandated inefficiencies in the administration of research and

in the loss of enthusiasm and excitement on the part of the research community.

- Oregon State University, p. 44

If a project is audited additional costs are incurred.

The University has faced two large scale audits recently which should serve to illustrate the troublesome and costly nature of such undertakings.

The University's College of Education in 1976 received a contract from the U. S. Office of Education calling for a project in developing services to school systems in an eight-state region. The $181,000 contract was to be used in development of financial management training materials for post-secondary institutions, development of materials for parent education and early childhood education and development of a preliminary plan for management information system in the Southeastern states.

In August, 1976, government auditors began investigating activities of the Atlanta regional office of the Office of Education, which had approved the grant. In their investigations, three federal auditors spent 90 days on campus interviewing various University officials.

According to the assistant comptroller, the auditors had a 'you had better be clean' attitude, and spent many hours during the three months dickering with him and officials in the College of Education. 'They went over a stack of documents ten inches high and went all over campus talking to people,' he said. 'When we heard about the audit, I spent two days reviewing the project and didn't find any irregularities; it took three auditors three months to come to the same conclusion.'

The dean of the College of Education said the auditors checked every HEW contract held by the college, in addition to the grant in question, an audit that covered several million dollars in federal money.

After this lengthy process, the auditors told the University in the spring of 1977 that they had found no mismanagement of the grant funds. According to the comptroller, the audit was not aimed at the University anyway, but was an attempt to crack down on an official in Atlanta.

The cost to the University and the federal government was great;...

- Alabama, pp. 17-18

Nor are these costs only monetary. Often the effect is to take time away from research.

> Despite the existence of the OSP [Office of Sponsored Programs], many professors complain bitterly about the increasing paperwork attached to research proposals, grants, and contracts. While the OSP oversees all grant application and reporting, it does not participate in the research process directly. As a result, professors are left with the task of completing all necessary forms and reports, and with communicating with the sponsoring agency as required. Of the professors surveyed, several estimated that they now spend between 20 and 25 percent of their research time in these activities.
>
> - M.I.T., p. 64

At the smaller independent institutions the paperwork burdens are even more acute.

> While it is agreed that there should be fiscal accountability for funds supplied by government agencies, there is concern about the increase in excessive, time-consuming and costly reporting requirements being placed on academic institutions as a result of the acceptance of these federal funds. This is a particular burden to the small independent colleges and universities like Rice, which have neither the staff nor resources available to handle the growing burden of paperwork.
>
> - Rice, p. 45

The point to be made here, however, is that fiscal accountability and the research process are often perceived as mutually contradictory forces.

> ...the enforcement of fiscal regulations is often undertaken in such a way as to diminish the partnership qualities that supposedly characterize university-government relations. We believe that there is a very serious problem developing here on the national level.
>
> Iowa, p. 18

And along the same lines

> The people in the agencies who give out the money understand all this [the way research takes place] and for years their view prevailed. These are people quite knowledgeable about research and higher education; some

> are ex-faculty members. Their payoff comes in the form of successful research being undertaken, and they understand the investigator's viewpoint. But they are not the same as the people charged with supervising how the money is spent. Those people think in terms of prudent fiscal management, in which the government gets its money's worth out of every dollar. They don't necessarily know anything about research; they do not see the investigator's point of view. And their day has come.
>
> - Berkeley, p. 212

A new dimension in federal regulation vis-à-vis academic research has emerged in recent years -- the government has restricted certain kinds of research and established rules for the conduct of investigations involving human subjects and recombinant DNA. Quite naturally colleges and universities are concerned about this expansion of government controls on research.

> We were given strong assertions, though without documentation, that the difficulties of using human subjects are becoming so great that scientists are turning instead to animal subjects or away from live body research altogether. This seems to us an extremely important subject to inquire into in more detail. If there is a flight from research on humans as our indications and some recent writing suggest than any rational view of the value of regulation would need somehow to account for that loss. We urge the Sloan Commission to look into this matter.
>
> - Stanford, p. 19

And,

> The Department of Health, Education, and Welfare (HEW) has gradually increased the degree of regulation in this area [use of human subjects in research] and has imposed requirements not only related to the criteria research proposals must meet in protecting humans at risk, but also related to how the review committee meets and conducts its business. A detailed general assurance must be developed presenting in great detail how the entire process is handled. For example, the review committee is required to meet with a quorum to review each proposal involving human subjects no matter

how innocuous the procedures or how limited the risk. A more reasonable procedure would be to permit screening through normal review processes and referral of proposals involving risk with a requirement for the committee to meet only to review such proposals. It is not that the objectives of safeguarding human subjects is questionable. It is the apparent pervasive assumption that universities cannot manage these matters without detailed specification of procedure by government agencies.

- George Washington, pp. 102-103

The implications for DNA research are widespread.

It has long been the practice to require that research using dangerous substances be conducted only under carefully controlled conditions but this is the first time in the recent history of science that there has been a complete public prohibition of a kind of research [DNA]. Some of the regulations on human subjects come very close to doing this, the provisions on fetus research for example, but introduce elaborate standards and review mechanisms rather than put the research in question off limits. Thus this is a precedent-setting action, with the usual disagreements as to whether the precedent is a good one or not.

- Berkeley, p. 169

SAFETY AND HEALTH

The Occupational Safety and Health Act of 1970 is an attempt to standardize and enforce safety and health practices throughout the United States. The legislation is primarily directed at industry, but the regulations apply with equal force to colleges and universities.

All those surveyed agree that OSHA has made the campus a safer place by forcing them to correct potentially dangerous practices.

> The impact on the College has been significant; as in the case of EPA most of the changes required are things that should be done in any case. For example, many of the College's thousands of electrical outlets were not grounded - all of them had to be changed, at a cost estimated at $10,000. The College has now completed about 75 percent of this work; in the absence of OSHA it would have done the same thing, but over time as buildings were modernized and in the regular course of maintenance.
>
> - Williams, p. 21

The long term effect

> ...may actually be to save the University money since the modification could prevent accidents that might result in expensive litigation.
>
> - George Washington, p. 85

However, the OSHA regulations are criticized by institutions that have sophisticated technical equipment.

> M.I.T.'s safety engineers do not believe that the OSHA inspection was especially thoroughgoing. In many cases the compliance officers were not at all knowledgeable about the sophisticated scientific equipment being employed in various labs, and so were unable to assess their safety. In addition, OSHA standards often involve 'bread and butter' safety practices, difficult to argue with, but often less consequential than other safety problems encountered here at the Institute....This diverted their attention from the more serious safety issues to which they would rather have devoted their time, and considerably limited their ability to exercise independent judgment in what safety problems were of critical importance.
>
> - M.I.T., p. 88

Campus safety and health officials often find that OSHA requirements are counterproductive.

> ...industrial hygiene officers feel that their ability to exercise independent professional judgment has been reduced by the regulations. In some cases the regulations have had a 'dilution effect,' making it difficult for the IHO to suggest standards more stringent than those required by law. Researchers seeking their advice are often unwilling to adopt IHO proposed standards that are more strict than those required by law. This result is important, because the IHO believes that a number of OSHA standards are inadequate, and do not limit exposures sufficiently. On the other hand, the IHO regards some of the emergency standards as overly strong, mandating concentrations of materials far below those required for healthy working conditions.
>
> - M.I.T., p. 98

And

> ...detailed standards (with which they do not always agree) increasingly limit their ability to exercise independent judgment or to recommend standards more exacting than those required by law.
>
> - M.I.T., p. 101

While agreeing with the overall purposes of the legislation, specific complaints are often voiced about the frequency of inspections.

> Beyond OSHA requirements, physical plant at the College is subject to a variety of inspections by state and local agencies. Symptomatic of the potential bureaucratic crossfire in which the institution may occasionally find itself, satisfying one inspection carries no guarantees that others will be satisfied as well.
>
> - Franklin and Marshall, p. 37

And

> The College wistfully points out that federal, state and insurance safety and health inspectors now make 27 different inspections each year. Each one takes the time of responsible Buildings and Grounds personnel, who wonder whether it would not be possible to combine some of them.
>
> - Williams, p. 21

The costs incurred in complying with OSHA regulations are great. Even though there is agreement with the aims of the legislation, the costs involved are a significant problem.

> The initial report of safety deficiency correction needs at Oregon State University was published in March, 1974, covering all known violations of the then-existing codes; OSU took the lead in this activity among all schools in the State System of Higher Education. The total estimated cost of correcting safety deficiencies at OSU (in 1973 dollars) was $3,300,000; this figure has since escalated to approximately $6,000,000.
>
> No matter how seriously the University acknowledged its responsibility to provide a safe working place for its employees and students, it was clearly impossible to divert such a huge sum out of current budgets. Consequently, a program of deficiency abatement was divided into three phases, and presented to the 1975 Legislature for funding on a three-biennium basis.
>
> - Oregon State, p. 64

Since the regulations are continually amended, institutions operate under a certain degree of uncertainty. There is always the question whether they are in compliance at any given moment.

> While the concept of OSHA safety standards is good, the absence of understanding of an educational environment, and the constantly changing and unclear regulations make it very difficult, and in some instances impossible, for an academic institution to comply with the required regulations.
>
> - Rice University, p. 23

And

> Moreover, rules are frequently amended and in a constant state of flux so that attempting to comply can be a 'nuisance' at best and a threat to sanity at worst. According to the director of operations, meeting the requirements to the letter might cost one million dollars. The 'interpretability' of OSHA regulations guarantees uncertainty over just what constitutes compliance. If the institution must bear the costs of safety, how safe is 'safe?' How much is enough?
>
> - Franklin and Marshall, p. 36

One final criticism that is often leveled against OSHA regulations is that they do not acknowledge the unique qualities of the university setting.

> It should be noted that there is a potential problem to the University in that unreasonable standards may be set in some areas because of specific hazards in industry, which in a university setting are totally different. For example, extensive exposure to dangerous chemicals by personnel in industry may result in specific standards for storage and handling of chemicals and provisions for ventilation and fire extinguishers. These standards could be totally inappropriate in the University's Chemistry Department where the staff or students are exposed for only a small fraction of the time that industry workers would be. It should be said, however, that procedures have been established in which a petition may be filed for variance from a particular standard. This appeal goes through the U.S. Circuit Court of Appeals and obviously this process, even if the petition should be granted, would involve legal fees.
>
> - George Washington, p. 86

GENERAL CONSIDERATIONS

I. The general policies the federal government's laws and regulations are trying to promote are goals with which almost all educators are in agreement. In fact, many institutions began significant moves in this direction before the federal government entered into the process. Disagreements are about procedure rather than principle.

II. There is a vast difference between the impact on small colleges and large universities.

III. Colleges and universities feel that the government has no understanding of the financial burdens its regulations impose.

IV. Those who write regulations do not understand how colleges and universities work, according to the institutions.

V. Federal rules and regulations will make it more difficult to maintain educational diversity.

VI. There is a growing concern that regulations are beginning to touch the essence of the educational process.

VII. Federal regulations are often followed by state and local regulations and the result is overlapping jurisdictions and, in some cases, conflicting requirements.

I.

There is little doubt that educators are in basic agreement with the aim of federal legislation impacting higher education. Rather, the disagreement is with the procedures imposed by the regulations and not with the substance of the laws.

With very few exceptions, there are no significant quarrels with the objectives of legislation impacting on the University. While we are engaged directly in furthering our national interests and objectives in creating and communicating new knowledge, there is clear recognition by the University that other national objectives must be accomplished at the same time. For example, the goal of equal opportunity is not questioned but, in fact, supported in the strongest terms. In almost all areas, the concerns are with the particular regulations and the interpretations and procedures adopted by individuals in the government in carrying out the legislation and its objectives. Government requirements have too often tended to be arbitrary and costly to the University without contributing to the objectives of the legislation, and simultaneously they have impeded university governance and objectives. Causes for this are varied. These include, but are not limited to, vague and hence uncertain regulations, tentative and therefore changing regulations, duplications of requests by various agencies with the same objectives but with different compliance procedures, lack of agency awareness of feasibility of obtaining required data, and, last but not least, lack of agency awareness of possible negative effects on academic programs. Compliance with the law should be expected, as are reasonable and relevant monitoring procedures, but not all requirements have been reasonable or relevant.

- George Washington, pp. 66-67

And

'The problem I see with the implementation of so many of these regulations is not their direction, nor is the germ of the regulation or legislation necessarily wrong or inappropriate. Without fail, I see the purpose as being a positive one. Unfortunately, it's the bureaucracy, the procedure, the implementation, and the reporting of that regulation which almost negates the good intent of the regulation itself.'

* * *

'I think that the procedures and the implementation of some of these regulations are so onerous, even though they are well-intentioned, that in the name of institutional survival, people spend their time trying to figure out how they can get around the regulations and, therefore, such action defeats the purpose of the regulation itself.'

- Miami-Dade, p. 107

The congruance between the goals of federal legislation and the institutional viewpoint is reflected in the fact that many colleges and universities took significant moves in this direction before the federal government entered the process.

> While a few regulations have resulted in actions that the Institute would not have undertaken voluntarily, many simply reinforced existing policies or provided the impetus for changes that would probably have occurred at some future time.
>
> - M.I.T., p. 107

These earlier forays of the university, in many cases, facilitated their reaction to later legislative mandates.

> Oregon State University is particularly fortunate in that its response to many of these social concerns of the 1960's very closely paralleled the requirements later promulgated as law. The effect of many of the governmental regulations cited above, therefore, has been minimal at OSU. Moreover, the climate of social responsiveness engendered by these earlier actions of the University has facilitated reaction to more recent legislative initiatives.
>
> - Oregon State, p. 8

In some instances the effect of federal legislation has been minimal.

> One discovers, upon looking at the federal government, a vast number of programs, some (at least) of which were intended to bring about almost revolutionary changes on campuses in America. On the Villanova campus, however, these programs have generally had either a conservative* impact, or almost no discernible impact at all. One must ask, 'Why?', and 'What can be done to change this?'
>
> In part the failure of federal programs is because the regulations come some time after major changes in the society as a whole. In many cases, Villanova had already reacted to the social changes before the regulations were enacted or promulgated. To the extent that this sequence occurred at Villanova the resulting paper work that the regulations bring are seen as pure cost with no substantial benefit except perhaps at the very general level of benefit to society as a whole. Such

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*By conservative here is meant a preservation of existing conditions and existing patterns of change.

> an explanation, however, hardly explains the continuing lack of change in the campus racial mix, or the relative lack of success of Villanova faculty in securing research grants to take only two examples. Here the causes of failure lie in major part in the federal programs themselves.
>
> Federal programs are often, and often needlessly, confusing and contradictory, and occasionally irrelevant.
>
> - Villanova, p. 157

This, then, leads to the larger question -- can government pursue social change in universities via elaborate regulatory mechanisms?

> It is worth reconsidering the proper use of federal action to promote major social changes of this sort, a point returned to in the concluding section of this report. It may be that legislation and regulations have primarily an initial shock value, punching holes in hidebound procedures, shifting the intellectual/emotional milieu in which the society operates, and extending legitimacy and legal backing to groups fighting for social change at the local level. But once these forces for change have been set in motion, there is a bureaucratization and proceduralization that can set in if the laws and regulations continue to grow and the federal intrusions multiply.
>
> One contemporary model of governmentally induced social change involves unremitting federal pressure against other institutions and attitudes that persistently and unwittingly resist. Let up on the pressure and progress ceases. It might be better to think of the government helping set in motion forces for change that lead the society to do so on its own. The latter would necessitate less continuing federal intervention, less constant regulation, less intrusive oversight. And it might work better.
>
> - Berkeley, p. 93

II.

There is a vast difference between the regulatory impact on small colleges and large universities. For the most part, small colleges, after some initial concerns, have adapted to the changes

required by legislation. However, large institutions have had to make major adjustments in their internal organizations, adjustments that extend beyond the addition of staff and the expenditure of funds.

> These programs - such as affirmative action, student control of access to their records, or various regulations of terms and conditions of employment - have produced much alarm when they were first enacted, but are rather quickly absorbed into decision-making routines with few real changes in what actually happens on campus.
>
> - Villanova, p. 154

> As to changes in administrative procedures, less has occurred even here than one might expect to find. Only the Financial Aid Office spends as much as 50% of its time dealing with government policies or programs. Most other offices spend less than 25% of their time on such matters, and have generally incorporated these policies and programs into existing structures with minimal effect.
>
> - Villanova, p. 156

Contrast this to the Berkeley commentary.

> A survey of the impact of government on Berkeley turns out to be a tour of the entire institution. Even odd corners and intimate features of the place have to be probed, for the government seems to have crept into every cranny. What does this tell us? In recent years a number of economists who have studied the major defense contractors have concluded that the government's presence is so overpowering, their status as private companies is a fiction. We may soon be forced to the same conclusion about the autonomy of major universities.
>
> - Berkeley, p. 326

III.

Part of the debate about the impact of federal regulations on the higher education community is a question of costs. Regulations and reporting requirements result in higher costs for institutions.

Colleges and universities argue that funds are not being provided to offset these costs.

These costs are not just monetary.

> ...there have been costs to the University associated with government programs. These costs are extremely difficult to measure. Some costs are reasonable and appropriate but others are not, and the latter are more than noticeable. Costs here refer not only to data that may be derived from an accounting system but rather 'real' costs associated with opportunities to meet our objectives that have been foregone. In a more practical vein, for example, costs incurred for needless and duplicative reports represent funds not being used for education. The same is true for required operational compliance which is unreasonable, and the previous sections have referred to examples of both. Our University is dependent on tuition income supplied by students desiring an education and any of this income allocated for inappropriate purposes must be questioned.
>
> - George Washington, p. 111

In some cases, colleges and universities must bear these costs themselves.

> ...independent colleges and universities are uniquely burdened by being unable to pass the costs on to their 'customers,' as is done in business, or to the taxpayers, as is done by the state-subsidized institutions.
>
> - Roosevelt, p. 33

The potential problems created by this situation are far reaching.

> An increasing financial burden to meet federal requirements will greatly diminish their ability to function, and as regulations continue to proliferate, the implication of this increased regulation becomes more fearful than any negative effect of current regulations.
>
> - Rice, p. 47

The "costs" of federal regulations must be viewed in the larger economic context of higher education.

> ...a federal regulation means that someone must change behavior, someone must spend time, or someone must spend money. Whether behaviors should change--and who should change them--and whether costs should be paid--and who should pay them and how much--are the root issues of every debate over federal regulations.
>
> * * *
>
> In a time of growing student populations and rising budgets, cost conflicts can be submerged. A continuing expansion of resources can cover a multitude of conflicts and sins. However, as growth rates sink, conflicts are likely to surface. Uncertain public confidence, a lagging economy, and a 'steady state' environment all provide fertile soil for the perception that federal regulations are unwelcome threats and burdens. As threats to traditional decision-making procedures, and as additional burdens on already hard pressed time and financial budgets, regulations are not invited additions to campus life. Some commentators have drawn the analogy between higher education protests against regulations in the 1970's and business protests against regulations in the 1930's. While the analogy gives pleasure to businessmen and discomfort to academics, in protesting against regulations both groups are essentially trying to lower their costs.
>
> - Franklin and Marshall, p. 26

IV.

According to academics, those who write regulations do not understand how colleges and universities work. These misperceptions center on a larger issue.

> What really lies at the bottom of the current furor over governmental regulations is a lack of trust and confidence on the part of government and higher education in each other.
>
> - Iowa, p. 28

In discussing the federal mechanisms that support academic research, the Berkeley study talks of government attitudes vis-à-vis the university.

> The starting point would be for the government to confront more directly the implications of continuing to foster and finance research in <u>educational</u> institutions.

> Some of these are obvious upon a little reflection but they are seldom considered these days within the government.
>
> The first implication is that one cannot sponsor research within an educational environment without paying sympathetic attention to the nature of that environment. Educational institutions are distinctive, just as governments or corporations or unions are. They attract certain kinds of researchers. They will have their own ways of doing business, their distinctive mores and values, their particular methods for evaluating people, their peculiar ways of distributing power and authority, in short a distinctive organizational pattern. All this is part of what the government 'buys' when it sponsors the research in that environment. If the environment is deemed a productive one for doing good research, then government must expect to have to accomodate to it to some considerable extent. Accountability works both ways.
>
> A second, and most important, implication is that since the institutions exist to do more than research they will attempt to link research to other activities. In particular, as <u>educational</u> institutions they will try to plug research into teaching. This will affect the ways people in the institutions do the research, the procedures they use, as they adapt the research effort to fit the other personal and institutional goals that flow from membership in a university. It's not just that educational institutions have a particular environment, but that the environment exists because of the other perfectly respectable goals of those institutions.
>
> The government can hardly expect institutions to refrain from attempting to meld research into that environment. To not do so is to bifurcate the organization.
>
> - Berkeley, p. 148

These comments extend beyond just research support -- for a variety of reasons, colleges and universities do not think that the government has an adequate or valid conception of their environment. One way in which government's perceptions can be brought into sharper focus with the university milieu is

> ...the training of staff members in government agencies to better understand the unique features of the objectives and organization of universities. This understanding is necessary in order that the individuals writing

or implementing regulations may assess the impacts of the regulations. Another approach in this direction is to invite and utilize academic advisory groups before regulations are finalized. Some beginnings in this direction have been accomplished recently in the Office of Education.

Of course a necessary approach is to keep Congress informed concerning probable impacts of proposed legislation.

- George Washington, p. 113

Another way would be to diminish the reliance on administrative law.

There is need for a return, in some degree, to greater reliance upon statutory law, enacted by elected representatives of the public, rather than proceeding with the ever-greater delegation to administrators of the power to promulgate binding administrative law, in a quasi-legislative mode.

Administrative law is an indirect product of the complex and highly technical twentieth century society. Its lineage is difficult to find in the Constitution. It now has burgeoned in this country to such an extent that, very likely, more laws affecting more persons are promulgated in this manner than either the legislative enactments or the judicial case law. It is a rapid means of generating large quantities of law, since one statute can give birth to large numbers of regulations, purportedly pursuant to the statute. This phenomenon has been the chief source of the large and variegated complex of requirements which the regulated person or institution or enterprise now must understand and obey, and of the consequent cost and debilitation which follow.

- Ohio State, p. V-3

Delegation over to the administrative wing of government has been a quick means of drafting and passing a bill, rather than enacting a precise statute. But the Congress now has the staff capacity, and access to ample outside expertise, for the drafting of precise legislation in the first place, and it would not be inappropriate for all of the regulated interests in this country to apply pressure in that direction.

- Ohio State, p. V-4

V.

American higher education has been characterized by diversity, a diversity of size, type of support, mission. This diversity has been viewed as a good and its preservation sought. Yet, there are those who regard the growth of federal regulations affecting the university as a threat to this diversity.

> Higher education in the United States has been notable in its diversity and in its ability to provide a large range of choices to satisfy the desires of individuals seeking education. Government regulations are always uniform and it is not clear that with this uniformity we can preserve the diversity of our institutions of higher learning. Even reporting requirements associated with regulations can never be absolutely neutral in their effects. The uniformity of these requirements and the usually uniform rules and criteria for their evaluation may be expected to induce a sameness among our institutions. Also, on a more practical level universities of different sizes cannot be expected to comply or report with the same degree of efficiency and effectiveness. There are probably scale economies which could make it more difficult for the smaller institutions to comply in any feasible manner. More specifically, the costs of compliance may be too high for their survival, particularly when these regulations come at a time of financial hardship for all educational institutions.
>
> - George Washington, p. 69

In another view

> ...bureaucratic decisions on rules in one institution or type of institution are likely to reverberate throughout the rest of the 'community.' Bureaucrats seek to muffle the differences among institutions, while academics seek to highlight their 'uniqueness.' Viewed from the perspective of each, such conflicting goals among bureaucrats and academics are perhaps inevitable. Nonetheless, the heterogeneity of both the regulators and the regulated exacerbates the already natural conflict between the two.
>
> - Franklin and Marshall, p. 29

VI.

There is a growing concern that government regulations are beginning to invade the academic decision-making process.

> Rules which change (or threaten to change) institutional decision-making procedures or in some way shape judgments made on faculty, students, and curriculum are--or should be--the crux of the debate over regulations. The importance of government regulations affecting the College as an educational institution is commensurate with the importance of the ultimate purposes of the institution.
>
> - Franklin and Marshall, p. 53

Recent rulings by the Veterans Administration are regarded as interfering with the educational nature of colleges and universities.

> In 1975 the Veterans Administration launched a 'campaign' to correct the few abuses through continuous and pervasive regulations imposing numerous restrictions and extensive reporting procedures on all educational institutions enrolling veterans. In this campaign, the VA has intruded into the management of higher education, infringing upon institutional prerogatives and seriously limiting the services to veterans as intended by legislation of the U.S. Congress.
>
> - Miami-Dade, p. 19

And

> Since some veterans try to collect unwarranted benefits from the Agency and since some proprietary schools strive to exploit both the veterans and their educational benefits program, the VA has become increasingly restrictive in recent years in the requirements it imposes on postsecondary institutions, often demanding that the institution function as a policeman on behalf of the VA. Proposed and sometimes imposed requirements would impact on a wide range of academic policies. Without detailing all the particulars of every VA-University problem over the past year, it can be said that this particular agency tends to place psychic as well as cost burdens on educational institutions. Regarding the former, two causes usually lie at the root of every VA-related problem. Those are: (1) an unwillingness by the VA to provide reasonable time-frames for compliance; (2) a lack of understanding by VA officials of the academic world and its constraints.
>
> - Iowa, p. 11

Similar in their intrusiveness into academic life are the conditions imposed on institutions that accept capitation funds under health manpower legislation.

> Stipulations regarding student numbers were always associated with these grants, but in recent years other conditions affecting curricula and admission policies have been added. The most publicized is the requirement that colleges of medicine receiving capitation funds must accept certain third-year American students now in foreign medical schools into their programs. Less publicized have been some of the curricular requirements for schools of dentistry and pharmacy. While rare in other areas, intrusions into academic policies are common in the health fields...
>
> - Iowa, p. 11

And

> Of more immediate concern is the requirement relating to the acceptance of transfer students from two-year colleges and from foreign medical schools. These transfer students are U.S. citizens who have completed Part One of the National Medical Board examination, and who are required to be admitted to the third year of training. Such transfers are to be admitted without regard to their academic record. Further, the number to be admitted is to be determined by the Secretary of HEW. This particular proposal, added almost as an afterthought to the legislation, has stirred a major controversy. Stanford and several other medical schools have said that this is so significant an erosion of their autonomy, that they will forego the benefits of the law rather than comply. The cost to Stanford would be $410,000 a year together with the exclusion of all of its students from the student loan program which the Act authorizes.
>
> - Stanford, p. 16

Viewed in this same light are recent government prohibitions on the conduct of DNA research. (See pages 31-32 in the Research section.)

Perhaps the most disturbing thoughts regarding intrusion are uncertainty about the future.

> ...a major concern resulting from this study is the trend of government intrusion and that of uncertainty. That is, uncertainty about what will be required of the University in order to comply with some major items of current legislation, and possibly of greater concern, uncertainty about legislation and regulations which may be on the horizon.
>
> - George Washington, p. 112

VII.

We have been talking about regulations in this paper as if the federal government was the only source. Instead it should be noted that federal actions often have an "echo" effect

> ...in which federal initiatives are soon followed by interest in the state government and even local governments. What can result is a set of overlapping regulations and reporting requirements that carry the total burdens and restrictions far beyond those initially envisioned in Washington. This is a point that has not received the attention it deserves,...
>
> - Berkeley, p. 170

State regulations have an impact on the campus that some regard with greater alarm than the corresponding federal rules.

> ...while the federal government, through its laws and regulations, creates a major paperwork burden for the institution, it is by far not the only, nor even the major, culprit.
>
> Much of what the University has created in the way of bureaucracy is in response to forces at the state level.
>
> -Alabama, conclusion

And

> An important secondary effect of federal regulation and the requiring of reports, is a parallel increase in ones imposed by others. This is often neglected in analyses of the federal-higher education relationship. Anyone contemplating new federal regulations or reports should take this phenomenon into account in assessing the burdens that will result.

State legislators, in particular, find federal enactments a fertile field for new ventures in creative government. This comes about in several ways. There are state actions that imitate prior federal ones,.... Particularly important is the fact that the imitation is imperfect - there are differences in what is required, which makes for confusion and annoyance. And the thirst to legislate is seldom slaked by mere imitation; one must go beyond, and so state enactments carry controls and intrusions even further. Buckley allows someone reading a recommendation to know whether the student waived his right to see it, state legislation does not. In prospective state legislation DNA become 'biohazards,' a much larger and more intrusive category, and federal regulation is supplemented by a state commission, which would no doubt find work in exacting it from others. Then, there is state action in lieu of federal legislation. Cal-OSHA is an example, in which federal government measures are displaced with its agreement, by equally or more stringent state ones. EEOC defers on complaints it has received to the state Fair Employment Practices Commission.

Next, there are the situations where the federal government works in conjunction with a state agency,...

- Berkeley, p. 353